

REMARKS / ARGUMENTS

The Applicant thanks the Office for the careful consideration given to his application in the communication mailed 11/03/2006. In that communication, the Office objected to the disclosure in that the “roll” 12 should have been the “core” 12. Claims 1 – 5 were rejected as being unpatentable over the Kaufman ‘923 application as being anticipated under 35 USC 102(e) or obvious under 35 USC 103(a). The Office also took official notice of wrapping the roll with a material impervious to scent as being old and well known in the art.

In response, the Applicant has amended the disclosure to change “roll” to “core” wherever it was appropriate.

Applicant invokes his right under 37 CFR 1.105(d)(2) to respectfully request an affidavit of the examiner to support his official notice of facts within his personal knowledge. Until the affidavit is of record, the Applicant asserts that each element of his claims cannot be found in the prior art. Namely, wrapping the roll with a material impervious to scent, and an airtight wrapping, are not found in the prior art of record. Nor is the step or element inherent. Therefore, a rejection for anticipation is not proper.

Applicant also asserts that the Office has not established a prima facie case of obviousness. The Office has rejected the claims for obviousness based on only one reference, the Kaufman ‘923 application. “If it is necessary to reach beyond the boundaries of a single reference to provide missing disclosure of the claimed invention, the proper ground is not Section 102 anticipation, but Section 103 obviousness.” *Scripps Clinic & Research Found. v. Genentech Inc.*, 927 F.2d 1565, 1577, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991).

Furthermore, the Office does not allege at least one of the elements of a prima facie case. A suggestion or motivation to modify or combine is not mentioned whatsoever.

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Amdt. dated 1/30/07
Reply to Office action of 11/03/06

For the above reasons, the Applicant respectfully requests reconsideration. The Examiner is encouraged to telephone the Attorney directly to resolve any remaining issues in the hope of a speedy allowance.

Respectfully submitted,
/Phillip E. Decker/

Date: January 30, 2007
Tel. No. 603-766-1910
Fax No. 603-766-1901

Phillip E. Decker, Reg. No. 39,163
Attorney for Applicant
1 New Hampshire Ave., Suite 125
Portsmouth, NH 03801